

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**In re: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION**

) **MDL No. 1456**
) **Master File No. 01-CV-12257-PBS**
) **Subcategory Case. No. 06-11337**
)
)

THIS DOCUMENT RELATES TO:

) **Hon. Patti B. Saris**
) **Magistrate Judge**
) **Marianne B. Bowler**
)
)

*United States of America ex rel. Ven-A-Care of the
Florida Keys, Inc., et al. v. Dey, Inc., et al.,*
Civil Action No. 05-11084-PBS

Damon W. Suden, being of full age and duly sworn, hereby deposes and says:

1. I am an associate in the law firm of Kelley Drye & Warren LLP, attorneys for Defendants Dey, Inc., Dey L.P., Inc. and Dey L.P. (collectively, "Dey") in the above-entitled action. The facts stated in this declaration are true of my own personal knowledge. I make this declaration in support of Dey's Motion to Compel Documents Responsive to Subpoena.

2. Attached hereto as Exhibit 1 is a true and correct copy of the subpoena served on Delaware Health and Social Services, dated November 19, 2008.

3. Attached hereto as Exhibit 2 is a true and correct copy of the subpoena served on the North Carolina Department of Health and Human services, dated November 19, 2008.

4. Attached hereto as Exhibit 3 is a true and correct copy of the subpoena served on the Oklahoma Health Care Authority, dated November 25, 2008.

5. Attached hereto as Exhibit 4 is a true and correct copy of the subpoena served on the South Dakota Department of Social Services, dated November 25, 2008.

6. Attached hereto as Exhibit 5 is a true and correct copy of the transcript from the status conference held before Judge Saris on November 13, 2008.

7. Attached hereto as Exhibit 6 is a true and correct copy of the motion to quash filed on December 4, 2008 by Delaware Health and Social Services, Division of Medicaid and Medical Assistance.


8. Attached hereto as Exhibit 7 is a true and correct copy of a letter from counsel for the North Carolina Department of Health and Human Services ("NCDHHS"), dated December 2, 2008.

9. Attached hereto as Exhibit 8 is a true and correct copy of a letter from Dey's counsel to NCDHHS, dated December 3, 2008.

10. Attached hereto as Exhibit 9 is a true and correct copy of the objections filed by the South Dakota Department of Social Services, dated December 8, 2008.

I declare under penalty of perjury pursuant to 28 U.S.C. §1746 that the foregoing is true and correct.

Executed on this 15th day of December, 2008.



DAMON W. SUDEN